REMARKS

claims 19 are pending and stand ready to further action of the merits.

The specification has been amended to charify the scope of component (C).

Support for the amendment to claim 1 can be found in cancelled claim 10. Support for the amendment to claim 9 can be found on page 27, line 15 to page 28, line 2.

No new matter has been added by way of the above-amendment.

Interview

Applicants will the at sepect the rest to the west Hare days of the contribution of the second section of the sect

Issues under 35 U.S.C. 112, second paragraph

thems 1 to are rejected under 2 U.S. 1 112, second paramaph, as being indefinite. Applicants respectfully traverse the rejection.

The Examiner objects to the scope of the terms "olefin-based thermoplastic elastomer" and "styrene-pased thermoplastic elastomer". The Examiner finds that these terms are defined on pages 27 and 28 to include possible copolymers that are not art-recognized as being encompassed by these terms.

In response, Applicants have amended the specification at pages 27-28 and claim 9 to clarify the possible copolymers that are encompassed by these terms. Each of these terms are now defined to include only art recognized (co)polymers.

In view of the above amendments and comments, Applicants respectfully submit that the claims particularly point out and distinctly claim the subject matter that Applicants regard as the invention. As such, withdrawal of the rejection is respectfully requested.

Issues under 35 U.S.C. 112, first paragraph

Thaim 9 is rejected under 45 U.S.T. 112, first paragraph. Applicants respectfully traverse the rejection.

The Examiner has taken the position that claim a lacks written becompton support. Specifically, the Examiner states:

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In response, Applicants have membered are established when comparent of is the eletin based thermoplastic elastomer, component at is at least one selected from the group consisting of ethylene propylene copolymer, ethylene propylene 5-ethylidene norbornene copolymer, ethylene-propylene 5-methyl norbornene copolymer, ethylene-propylene-dicyclopentadiene copolymer, ethylene-butene copolymer and ethylene-octene copolymer; and when component (C) is the styrene-based thermoplastic elastomer, component (C) is at least one selected from the group consisting of styrene-butadiene block copolymer, styrene-isoprene block copolymer, hydrogenated styrene-butadiene block copolymer, and hydrogenated styrene-isoprene block copolymer. Since there is clear support on page 27, line 15 to page 28, line 2, Applicants respectfully submit that the inventors were in possession of the presently claimed invention at the time of filing. As such, withdrawal of the rejection is respectfully requested.

Hasegawa et al. - U.S. Patent 5,550,190

Claims 1-6, 8 and 9 are rejected under 45 U.S.-1. 102(b) as anticipated by, or, in the alternative, under 45 U.S.-1. 103(a) as obvious over Hasebawa et al. Applicants respectfully traverse the rejection.

In view of the above amendment, incorporating the subject matter of claim 10 into claim 1, Applicants respectfully submit that this rejection is rendered most.

Statz - U.S. Patent 5,889,114

Claims 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Statz. Applicants respectfully traverse the rejection.

This rejection is confusing to Applicants, since each of claims 9 and 10 depend from claim 1, and yet claim 1 is not currently under rejection. Applicants will now assume that claim 1 is also under rejection over Statz.

Applicants respectfully submit that the presently claimed there plastic elastomer way sition is written anticipated nor namion is by us were the teachings of state.

The state of the s

Application to that it is parable to correlate component of Static with inventive component (Ar., and to correlate component of Static with the inventive component (Br. However, Applicants respectfully submit that the skilled artisan would not correlate component (b) of Statz with the inventive component (C). The Examiner cites the exemplified embodiments of Statz disclosed in Tables V, VI, VIII, IX, X and XII for teaching the inventive thermoplastic elastomer composition. In Tables V, VI, VIII, IX, X and XII of Statz, the acid-containing ethylene copolymer is a copolymer of ethylene and acrylic acid. Thus, it appears that the Examiner is correlating the acid-containing ethylene copolymer of Statz with the inventive component (C).

In response, Applicants have amended the present specification at pages 27-28 to clarify that when inventive component (C) is an olefin-based thermoplastic elastomer, it is at least one selected from the group consisting of ethylene-propylene copolymer, ethylene-propylene 5-ethylidene norbornene copolymer, ethylene-propylene-5-methyl norbornene copolymer, ethylene-propylene-dicyclopentadiene copolymer, ethylene-butene copolymer, and ethylene-cottone copolymer.

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directs, all the claim limit of ms must be tarint of surresteilly the prior art to establish a prima facie case of anticipation of the rejection is respectfully requested.

Conclusion

In view of the above amendments and comments, Applicants respectfully submit that the claims are in condition for allowance. However, in the event that the Examiner finds to the contrary, Applicants respectfully request that the Examiner enters this Amendment into the official record, to place the claims into better form for appeal.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Garth M. Dahlen, PhD. (43,575) at the telephone number of the understand below.

Please note that the extension of time fees are enclosed with the Notice of Appeal which is ising filed to by. February 14, 2005.

Accordingly, no extension of time fees are necessary in the most in with this Appeal and the state of the st

Attached hereto is a marked-up version of the changes made to the application by this Amendment.

If nomenary, the Corrections as hereby with sixed in this, concurrent, and future replies, to charac payment a credit may recreate to Leposit Account M... 2 244- for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

ВУ

John W. Bailey

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Attachment: Version with Markings to Show Changes Made



VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE SPECIFICATION:

The paragraph on page 27, line 15 to page 28, line 20 was first amended in the June 26, 2002 Amendment. The amended paragraph is herein amended a second time as follows:

--As the rubbery elastomer of component (C) of the present invention, mention may be made of olefinic elastomers, e.g., ethylene- α -olefin copolymers (the ratio of α -olefin is 20% by weight or more) such as ethylene-probylene copolymer, ethylenepropylene-5-ethylidene norbornene copolymer, ethylene-propylene-5-methyl norbornene copolymer, ethylene-propylenedicyclopentadiene copolymer, ethylene-butene copolymer and ethylene-octene copolymer, and compositions of these elastomers and the above-described olefinic resins [(including dynamic pulcanizates:]; and styrene based elastomers such as styrene-Intraliene block our lamer, styrene is a rene block cop lymer, Eithe menated styrene rutadiene block opplymen, and by in menated styrene is present to do in lymer. [and the hydroenet for bots thereof. Further, as a rubbery chast mer of the ment of the the organization of the extra constraints of the contract of t urundi. Garan Sidiren adalarak baran beresarah beresa da da da da da da marinda beresa hari b and other of a figure of the end of the transport of the end of the t oleka og goderningen og engligger af agget kapellerte er stalleret om en staten er

ratter; silithe matters matrice ratter; for the mathers and unothers rulter. Amount these clustement, particularly, lettin based] olefin based clustement and styrene-hased clastement are preferred because of being able to provide an elastement composition having excellent moldability, rubber clasticity and scratch resistance. Particularly preferably, when an olefinic clastomer of an ethylene- α -olefin copolymer having 20% by weight or more of an α -olefin, and a styrene-based clastomer obtained by hydrogenating a styrene-diene block copolymer are used as component (C) of the present invention, can be obtained a thermoplastic composition having further excellent strength and oil resistance.—

The paragraph on page 28, line 21 to page 29, line 8 has been amended as follows:

--As commercially available products of the above described olefinic elastomer, "Thermorun" produced by Mitsubishi Kagaku K.K., ["Milastomer" produced by Mitsui Sekiyukagaku Kouyo K.K. (Mitsui Petroleum Chemical Industry K.K.),] "Sumitomo TTE" produced by Sumitomo Kadaku K.K., ["Santoprene" produced by AES E.E.,] "Furrer" produced by for high few Themical E.E. can be mentioned. As a more mally available produced to the above because is atyrone independent, "intro-of-produced by Acars Fueri Forgo F.E., "Fara. "In the introduced Early Acars Fueri Forgo F.E., "Fara. "In the introduced Early Acars Fueri Forgo F.E., "Fara. "In the internal Early Early F.E., "Fara. "In the internal Early Early

Francy, and "Type of proceeding Mippers to the F.E. of plans synthetic Englisher can be restained.

IN THE CLAIMS:

Claim 10 has been canceled.

The claims have been amended as follows:

- 1. (Amended) A thermoplastic elastomer composition comprising the following components (A), (B) and (C):
 - (A) 100 parts by weight of a thermoplastic polyester elastomer;
- (B) 3 to 100 parts by weight of a modified olefin resin having an epoxy group or a derivative group thereof in its molecule; and
- (C) 10 to 900 parts by weight of a rubbery elastomer selected from the group consisting of an elefin-based thermoplastic elastomers and styrene-based thermoplastic elastomers; and

wherein the component () is not vulcanized.

J. Amended) The their plastic clasterer composition acts income to claim 1,

where in the claim have distinguished the morphism of last over the composition of the th

polyion diene and polyerymen, natural rubber, now hold as anyl rubber, difference rubber, silicene rubber, nutribe rubber, fluorine rubber, unethane rubber, and hydrogenated products thereofl ethylene propylene copolymen, ethylene-propylene-sethyl norbornene copolymen, ethylene-propylene-semethyl norbornene copolymen, ethylene-propylene-semethyl copolymen, ethylene-butene copolymen and ethylene-octene copolymen; and

wherein the styrene-based thermoplastic elastomer component (C) is at least one selected from the group consisting of styrene-butadiene block copolymer, styrene-isoprene block copolymer, hydrogenated styrene-butadiene block copolymer, and hydrogenated styrene-isoprene block copolymer.